



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,038	09/15/2000	Edward Christian Jelks	41992-00220	3377

7590

01/16/2004

MARSH FISCHMANN & BREYFOGLE LLP
3151 South Vaghn Way Suite 411
Aurora, CO 80014

EXAMINER

PAYNE, DAVID C

ART UNIT PAPER NUMBER

2633

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/663,038

Applicant(s)

JELKS, EDWARD CHRISTIAN

Examiner

David C. Payne

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-22, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

2. The drawings are objected to because drawings are hand drawn and illegible and contain blank boxes, which are not widely recognized engineering symbols. Applicant must supply a suitable legend. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 10-22, 24 and 25 are rejected under 35 U.S.C.

103(a) as being unpatentable over Suzuki et al. US 5,754,714
(Suzuki) in view of Hofmeister US 6,091,864 (Hofmeister).

Regarding claims 1, 8, 14, 18 Suzuki disclosed

A high efficiency optical feedback modulator operable to produce a
high modulation depth optical signal, comprising:

an optical modulator (figure 7) having a first (signal light) and a
second optical input (control light) and a first and a second optical
output (13 or 14);

an optical feedback system coupling the second optical output to
the second optical input and operable to communicate an optical
feedback signal from the second optical output to the second optical
input (control light); and

wherein the first optical input is operable to receive an input light
beam and

Suzuki does not disclose that the optical modulator operates to
modulate the input light beam and the optical feedback signal in
response to an electrical signal to optical signal from the first optical
output.

Hofmeister disclosed (Figure 4) an optical modulator with an

electrical input (RF1). It would have been obvious to one of ordinary skill in the art at the time of invention to modulate the Suzuki modulator with the external (RF1) signal in order to imprint an analog data signal such as a CATV signal (see col./line(s): 4/15-25). Furthermore, no patentable weight has been given to the limitation of "the high modulation depth" since it does not pose any substantive differences over the prior art.

Regarding claim 3, Suzuki disclosed an optical waveguide (Figure 7).

Regarding claims 4, 17, 19 the modified invention of Suzuki and Hofmeister disclosed an analog signal (CATV, see col./line(s): 4/15-25).

Regarding claim 16, Suzuki disclosed a Mach Zehnder two-by-two optical modulator (Figure 7).

Regarding claims 5, 11, and 25 Suzuki disclosed couplers (Figure 7, #1 and #2) but not 3db couplers. However, it would have been obvious to one of ordinary skill in the art at the time of invention to

use 3db couplers so the an equal amount of energy would be split
be each branch yielding a 50:50 power split and equally mixing the
input optical signals as is well known in the art.

Regarding claims 6, 12 the modified invention of Suzuki and
Hofmeister disclosed a first and second phase modulator
(Hofmeister, figure 5, #102, and #116).

Regarding claims 7, 13, 20 the modified invention of Suzuki and
Hofmeister disclosed the use of repeaters (Hofmeister, e.g.,
col./line: 4/20-27).

Regarding claim 21, Suzuki disclosed, (figure 7)
a method of communicating an input light beam to a first optical
input (signal light) of an optical modulator;
communicating an optical feedback signal from a second optical
output (control light) of the optical modulator to a second optical
input of the optical modulator;
coupling the input light beam with the optical feedback signal to
produce a first and a second optical signal; (13 or 14)
Suzuki does not disclose intensity modulating at least one of the

optical signals with an electronic input signal to produce a first and a second phase shift optical signal; and coupling the phase shift optical signals to produce an optical feedback signal.

Hofmeister disclosed (Figure 5) an optical modulator with an electrical input (RF1) controllable to shift the phase of the signals. It would have been obvious to one of ordinary skill in the art at the time of invention to modulate the Suzuki modulator with the external (RF1) signal in order to imprint an analog data signal such as a CATV signal (see col./line(s): 4/15-25).

Regarding claims 2, 10, 15, and 22 the modified invention of Suzuki and Hofmeister does not disclose an amplifier in the feedback path. However, it would have been obvious to one of ordinary skill in the art at the time of invention to place an amplifier in the feedback path in order to amplify the output of the modulator as is well known in the art to do.

Regarding claim 24 Suzuki disclosed

A high efficiency optical feedback modulator operable to produce a high modulation depth optical signal, comprising:

an Mach Zehnder two-by-two optical modulator (figure 7) having a

two optical inputs (signal light, control light) and at least two optical outputs (13 or 14);

Suzuki does not disclose that the optical modulator operates to modulate the input light beam and the optical feedback signal in response to an electrical signal to optical signal from the first optical output, and an optical receiver.

Hofmeister disclosed (Figure 4) an optical modulator with an electrical input (RF1). It would have been obvious to one of ordinary skill in the art at the time of invention to modulate the Suzuki modulator with the external (RF1) signal in order to imprint an analog data signal such as a CATV signal (see col./line(s): 4/15-25). Furthermore, no patentable weight has been given to the limitation of "the high modulation depth" since it does not pose any substantive differences over the prior art.

Allowable Subject Matter

5. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any

intervening claims.

6. Claim 23 is allowed.

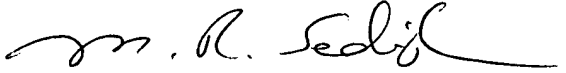
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (703) 306-0004. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (703) 305-4729. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Dcp


M.R. SEDIGHIAN
Patent Examiner
Art Unit: 2633